

STATEMENT OF WINONA E. RUBIN
ON NATIVE HAWAIIAN HEALTH AND EDUCATION
December 10, 1999

Aloha kakou!

- Mr. John Berry, Assistant Secretary, Policy Management and Budget, Department of Interior;
- Mr. Mark Van Norman, Director, Office of Tribal Justice, Department of Justice;
- Members of the federal Consultation Panel on Reconciliation Efforts, Re: P.L. 103-150.

I am Winona Kealamapuana Ellis Rubin, whose Hawaiian lineage can be traced back to the time prior to 1778. I speak from the perspective of having been: a co-founder and first President/Chief Executive Officer of the statewide Hawaiian community-based multi-service organization called ALU LIKE, Incorporated; a former teacher and educational administrator for over 20 years in public and private schools in Hawai'i and San Francisco and former assistant to the president of the private Kamehameha Schools Bishop Estate; a former state Land Use Commissioner; and a retired director of the state Department of Human Services (which had responsibility for the Hawai'i Housing Authority, social services and medicaid programs).

I am testifying regarding the public forum category of **Native Hawaiian Health and Education**.

Although the appropriate public and private agencies undoubtedly will provide you more complete current data on the status of Native Hawaiians in this state, I wish to highlight several points and make five recommendations.

Education

The state Department of Education (DOE) reports that the students enrolled in the 1992-93 school year totalled over 177,000 students, of which nearly 42,000 or 23% were Hawaiian – an increase from 33,423 (20.4%) in 1980-81.

The facts indicate:

- The Hawaiian excessive absenteeism rate is higher than for other groups;
- Hawaiian students are retained in grade more often than others
- Hawaiian students (who comprise approximately 25.5% of today's school population) continue to be over represented in Special Education, e.g.
 - 35.7% (1997-98) of which 39.35% have special learning disabilities.

- Hawaiians are still more impacted by negative social indicators such as child abuse and neglect and juvenile arrests.
- Hawaiian students graduate from high school at rates proportionate to their percentage in the DOE, but 30% of Hawaiian students are illiterate (read below 4th grade level) and 38% read between 4th and 12th grade levels.

Funds, to date, have been provided by the federal government for direct service delivery as band-aids in addressing basic and treatment needs. These programs have stopped further erosion of the well-being of Native Hawaiians while some have contributed to a "multi-generational dependency cycle". Unfortunately, limited attention and resources have been focused upon prevention and intervention through direct services and systems changes.

Recommendations:

1. Early prevention and intervention programs and separate, but relevant concurrent research, shall be specifically included in legislation and appropriation measures.
2. Funding shall be maintained (or expanded, if deemed necessary) for those existing programs/projects which show measurable outcomes and increasing positive impact for Hawaiians.
3. A Native Hawaiian Systems Review Consortium and process should be initiated and maintained throughout the reconciliation efforts. Research and appropriate surveys and community forums, complementary to the consortium planning and implementation, should be included. (See the attached over-simplified and incomplete sample chart and related glossary.)

Health/Mental Health

State DOE data indicates that 25.5% of their total student population are native Hawaiian. Of that number 24.8% (1980-81) to 36.4% (1991-92) to 36.12% (1997-98) are identified as severely emotionally disturbed. Recent studies by the University of Hawai'i and the September 1998 edition entitled "The Health of Native Hawaiians" of the Pacific Health Dialogue, the Journal of Community Health and Clinical Medicine for the Pacific, may be enlightening in this and related areas of concern.

Recommendation:

1. Provide new and increased funding at all age levels:
 - for accurate and timely diagnosis, treatment and follow-up of clients, their families and schools; and
 - for training of professionals and staff in this field, and
 - for piloting of prevention/intervention models.

Human Services

Special state tabulations of census data (December 1992) indicates that Hawaiians are 30.8% of AFDC (Aid to Families of Dependent Children – later renamed Aid to Children and Families), 21% of General Assistance, and 25.5% of Food Stamp only clients. Experience with ALU LIKE programs and those within the state DHS systems lead me to the next recommendation.

Recommendation.

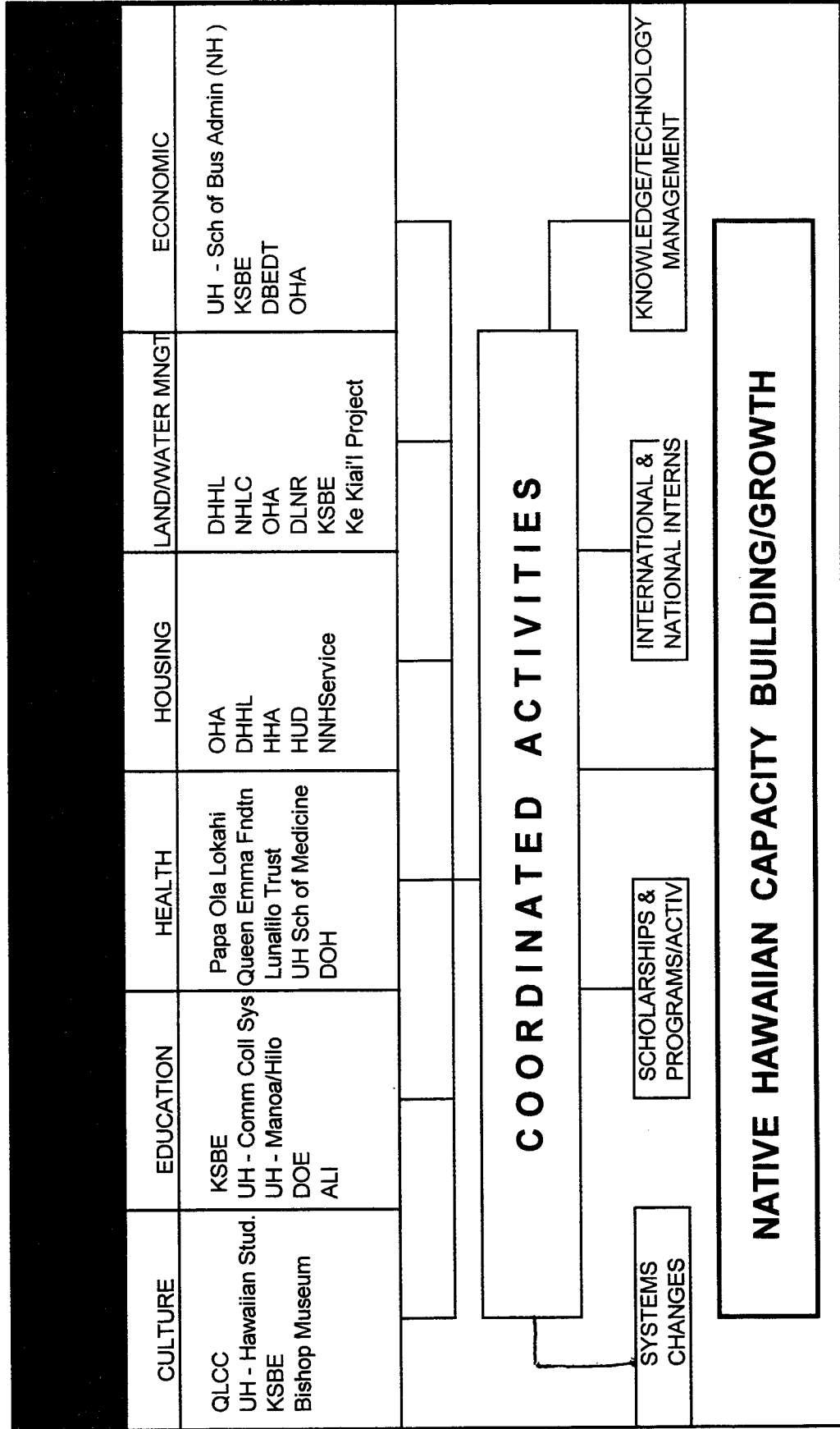
1. Provide expanded support for childcare and training of childcare givers to enable availability for employment and/or training opportunities for individuals on assistance..

Conclusion

I have made recommendations only as an interim measure to address existing needs of Hawaiians. Disruption of current programs, even though limited, would be a tragedy. Required funding for these recommendations is not intended to substitute for concerted and timely action on reconciliation activities. (See separate testimony on the latter.)

I am personally pleased that the process you have selected includes community input and what appears to be a desire for expeditious consideration and action. My best wishes for the best possible outcomes from your efforts. Mahalo.

NATIVE HAWAIIAN SYSTEMS CONSORTIUM
(Not-for-Profits, State Agencies, NH Projects)



GLOSSARY AND NOTES

Organizations and agencies will be asked to serve as convenors of "system review" meetings, since they are identified as lead agencies in the categories of interest. Suggested convenors include:

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| Land | - | State Department of Hawaiian Home Lands (DHHL)
Native Hawaiian Legal Corporation (NHLC)
University of Hawai'i Law School
Native Hawaiian Rights Clinic – Ke Kia'i at UH |
| Education | - | Kamehameha Schools Bishop Estate (KSBE)
University of Hawai'i in Manoa (UH-M)
University of Hawai'i in Hilo (UH-H)
University of Hawai'i system: Community Colleges
State Department of Education (DOE)
ALU LIKE, Incorporated (ALI) |
| Health | - | Papa Ola Lokahi
State Department of Health (DOH)
King Lunalilo Trust
University of Hawai'i School of Medicine
Queen Emma Foundation |
| Housing | - | Office of Hawaiian Affairs (OHA)
Department of Hawaiian Home Lands (DHHL)
Hawai'i Housing Authority (HHA)
Federal Department of Housing & Urban Development (HUD)
Nanakuli Neighborhood Housing Service (NNHS) |
| Culture | - | Queen Lili'uokalani Children's Center (QLCC)
Bernice Pauahi Bishop Museum
University of Hawai'i, Department of Hawaiian Studies
Kamehameha Schools Bishop Estate |
| Economic Develop. | - | Native Hawaiian Chamber of Commerce (NHCC)
University of Hawai'i, School of Business
Administration - Native Hawaiian Leadership Program
State Department of Planning, Economic Development and Tourism. (DPEDT) |

Note: List of subject areas can be expanded to include the other priorities identified in the August 1999 Office of Hawaiian Affairs (OHA) random sample of 3,975 people (1,764 Hawaiians), namely: (1) land rights, (2) unity, (3) education, (4) sovereignty, (5) health, (7) employment.

Participating organizations should be expanded to include other groups named by the community or organizations as important in the area of focus.

STATEMENT OF WINONA E. RUBIN
ON RECONCILIATION ACTIVITIES
Saturday, December 11, 1999

Aloha kakou!

- Mr. John Berry, Assistant Secretary, Policy Management and Budget, U.S. Department of Interior;
- Mr. Mark Van Norman, Director, Office of Tribal Justice, Department of Justice;
- Members of the federal consultation panel on reconciliation efforts, re: Public Law 103-150.

I am Winona Kealamapuana Ellis Rubin. I provided written testimony for the December 10th public forum based upon my professional experiences and training. Today, I speak as a Hawaiian, who has been involved in the movement for approximately thirty years and who has some comments and recommendations to offer relative to the reconciliation process.

I. Historical Context

In order to understand the special relationship between the United States and native Hawaiians and the position taken by native Hawaiians regarding sovereignty, one must understand some of the historical context for both parties.

Pre-1893:

The *Kumulipo* (creation) chant and other early chants describe the beginnings of the Hawaiian people and their arrival, 2000 years ago, in this island chain. A formal system of religion and governance with *ali'i* (rulers), *kahuna* (priests), and *maka'ainana* (common people) existed as early as the year 1300 A.D. At its zenith Hawaiians were the highest evolved society of all the Pacific peoples.

Prior to 1778, Hawai'i was home to nearly a million native Hawaiians. Captain James Cook "discovered" Hawai'i in 1778, opening the way for Hawai'i to become a strategic location in Pacific trading routes and an area of interest to "outsiders". The exposure to outsiders became devastating. Over the years, the Kingdom of Hawai'i entered into numerous treaties with world countries, including the United States, all of whom recognized the Kingdom's sovereignty.

After the abolition of the *kapu* (special system of laws) and the arrival, in 1820, of the first American Calvinist missionaries, the first of several Hawaiian constitutions was initiated in 1840.

In an apology to native Hawaiians in 1993, by the National Council of the Church of Christ, for their support of colonization activities in the 1800s up through the overthrow, the following statement was made. "The *kanaka maoli* (native people) have thus been deprived of their unique language, culture, national independence, and sovereignty, social cohesion, traditional religion, economic self-sufficiency, and have been evicted from the land itself. Those conditions exemplify the United Nations' definition of genocide."

The redress plan of the National and Hawaii Conferences of the United Church of Christ acknowledged that "a misunderstanding of the [church's] mission resulted ...in cultural genocide, coercive assimilation, historic shame, and loss of land" (1) for native Hawaiians.

Writer Martha Noyes in her 1996 article entitled "Cultural Abuse", in the Honolulu magazine, wrote: "In the 218-year life of post-contact Hawai'i, the native culture has been dominated by the Euro-American culture. And within the pattern of domination is the dynamic of abuse." She cites fourteen points of cultural abuse refined from several studies referred to in the Journal of Neuropsychiatry and Clinical Neuroscience and other sources. (2)

Critical mental health research about to be published, reinforces the importance of cultural identity and culturally-based approaches as the most effective influence upon education and health for native Hawaiians.

Since 1893:

On January 17, 1893, Queen Lili'uokalani and the Kingdom of Hawai'i. were deposed and destroyed by a revolution led by a small group of resident planters and businessmen from the U.S., aided by a U.S. diplomat and sailors and marines from the USS Boston. "The overthrow and demise of the Hawaiian monarchy were a significant turning point in our history." (Director of the Department of Hawaiian Homes Lands Georgiana Padeken at Kawaiaha'o Church on January 13, 1985)

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- (1) Interracial Justice, Eric K. Yamamoto, Chapter 9, "Apology and Reparation for Native Hawaiians, page 213.
 - 2) "Cultural Abuse", Martha Noyes, Honolulu magazine, 1996, pages 36 – 40; 109. Note: Includes references to a study entitled, "Native Hawaiian (Kanaka Maoli) Culture, Mind, and Well Being," by UH professor Anthony J. Marsella, et al, in Resiliency in Ethnic Minority Families, Vol. I: Native and Immigrant American Families, University of Wisconsin System, Madison, WI

President Cleveland in a message to Congress on December 18, 1893, called the overthrow an "act of war....a substantial wrong..." and asked Congress to restore the Queen as sovereign. Despite this on July 4, 1894, the overthrow conspirators declared the birth of the Republic of Hawai'i. On July 7, 1898, President McKinley signed the illegal Resolution of Annexation passed by Congress (when the Treaty of Annexation failed to pass) knowing full well that any resolution involving a foreign nation (such as Hawai'i) is invalid outside the United States.

Our history shows how native Hawaiians went from a self-sustaining, healthy, productive society to a people who lost their land, culture, language, government, health, and self-respect in a matter of 200 years. The U.S. understands this and now recognizes a "trust relationship" with native Hawaiians similar to other native American people.

II. Self Determination Activities

Talking about sovereignty or self-determination for over thirty years with unrealized expectations has compounded the frustration and depression and much more among Hawaiians since the mid-1900s. A few of the milestones include:

- In 1983, the Office of Hawaiian Affairs (OHA) produced *I Luna A'e*, a comprehensive planning document, after extensive community consultation; and no significant follow-up action on self-determination goals has occurred until this year, when a special committee, comprised of representation from some organizations (later called Paepae Hanohano), was selected by Trustee Akana and Trustee Trask to make recommendations to them.
- In 1993, Public Law 103-150, the "apology bill", was signed into law by President Clinton. Not until August 1999 did the federal government appoint two liaison representatives to work with the Hawaiian community as part of a reconciliation effort called for in the 1993 resolution.
- In 1996, a mail-in referendum was conducted on "Shall the Hawaiian people elect delegates to propose a Native Hawaiian government?" Those who voted expected action. There was none for three years.
- In 1998, Ha Hawai'i (and a number of collaborating organizations with a Combined membership of over 34,000) facilitated an election on January 17, 1998, to elect up to 85 delegates from a field of 156 candidates from local and mainland communities to meet in the Native Hawaiian Convention during 1999. Pre-convention meetings and educational workshops for the elected delegates have been held and a series of three-day convention sessions and some community forums have started.

- **Over the years**, most discussions and conferences on sovereignty have been initiated by the membership organizations. However, only one-third of the Hawaiian population belong to organizations. Therefore, the convention focus is on involving all Hawaiians, especially the two-thirds who are not members of organizations.

- o **In August 1999**, the Office of Hawaiian Affairs (OHA) reported results of a random sampling of 3,975 people (1,764 Hawaiians) in the community who identified their top priorities to be: (1) land rights, (2) unity, (3) education, (4) sovereignty, (5) health, (6) housing, and (7) employment.

III. Categories for Action

In formulating a reconciliation process which will be responsive to the Native Hawaiians and fulfill the legal and administrative trust responsibilities of the United States government, the following categories are suggested and recommendations made in each area.

A. Legal Status for Hawaiians

I refer you to the brief by the Solicitor General Seth Waxman on behalf of the U.S. government in the Supreme Court case of *Rice vs Cayetano*. As described in a summary by local attorney Beadie Dawson, among other things, the brief asserts that "Congress has long ago identified Native Hawaiians as an indigenous group falling within its Indian Affairs powers, starting with its enactment of the Hawaiian Homes Commission Act in 1920". I am sure that you have reviewed or have access to many other legal documents and arguments, so I will not presume to address them here.

B. Stability of Implementing P.L. 103-150

Executive Action should include the following:

1. President Clinton issues an executive order which affirms the specific trust relationship between the U.S. and Native Hawaiians and, further, that the criteria described in the 1934 IRA (Indian Re-Organization Act) and explained in pages 13-16 and 147-151 of the *Handbook of Federal Indigenous People's Indian Law* are cited as satisfying the U.S. government that Native Hawaiians are indigenous people. (See attachment to testimony.)
2. The Secretary of Interior establishes a permanent Office of Native Hawaiian Reconciliation with funding to ensure its full staffing and activities (including an inventory of all Native Hawaiian lands).

Congressional action should include:

1. Congress passes legislation which acknowledges the Native Hawaiians as indigenous people through an amendment to the 1934 Indian (Indigenous) Re-Organization Act.

C. Framework for the Reconciliation Process

I suggest a two-pronged process which (a) incorporates current self-determination activities, and (b) initiates new steps to complete the process within tight timeframes.

Current Activities and Plans

After thirty years of talking about self-governance, Native Hawaiians elected 77 delegates, from a field of 156 candidates, on January 17, 1999. Since then, the Native Hawaiian Convention (NHC) delegates have: (1) held pre-convention organizational meetings in February and May, (2) initiated bi-weekly meetings of several standing committees; (3) held education workshops on P.L. 103-150 and related issues; (4) filled some delegate vacancies as provided in the Convention Rules; and (5) held convention Assembly sessions on Hawai'i, Oahu and Maui – the most recent being in early November 1999..

The NHC is the first and only Hawaiian entity, elected by Hawaiians from throughout the world, which is committed to reaching consensus recommendations on self-governance for ratification by the Native Hawaiian electorate.

Before and after consensus is reached by the NHC delegates in convention Assembly sessions and through community forums, the Hawaiian and the Hawai'i community will be educated on the sovereignty issues, model options, and convention recommendations. Following the public information period (pre-convention, during the convention, and post-convention), the Hawaiian electorate will be provided an opportunity for a mail-out/in ratification vote on the recommended self-government options. The decision of the Hawaiian community will indicate the direction for future action.

Since funds are limited at this point in time, convention sessions will be held on at least five 3-day weekends, intermittently through this and next year until deliberations about the future governance are complete and the dissemination to, and the education of, the community has created a climate of readiness for a ratification vote by the Hawaiian electorate. It is absolutely important that the opportunity to make the final decision about the future will be provided to all Hawaiians, wherever in the world they may be.

Public reports on the convention and ratification processes will be made. The Printed materials for educational workshops held in June/July have been made available to libraries in the state and video tapes of the panel presentations from the same workshops have been shown on public television. More of this communication with the public is intended as additional forums and workshops are held and funds become available.

Suggested Reconciliation Process -- to be funded by the federal government, possibly through a newly created Office of Native Hawaiian Reconciliation.

1. PLEBISCITE

Native Hawaiian Convention (NHC) delegates, following community forums statewide, hold a plebiscite of Native Hawaiians in which at least 30% of the electorate participate and at least 50% approve of the plans to move ahead with the self-determination process.

2. POST-PLEBISCITE DIALOGUES

Following the plebiscite, the NHC delegates will reconvene to develop a proposed constitution which will be presented to the electorate for ratification or disapproval. At least 30% of the electorate will participate. If the proposal is not accepted by at least 50% of those voting, the constitutional convention activities will be resumed until a more acceptable constitution can be presented to the electorate for ratification or rejection. The outcome of this repetitive process will refine the constitution into an acceptable document and insure community participation/involvement during the process.

3. EDUCATION AND COMMUNITY OUTREACH

Native Hawaiians have been described as "indifferent" toward making decisions on sovereignty because they are concerned primarily about more tangible priorities, such as land rights, education, housing, health, employment, for example. Too often, sovereignty is considered as separate from all of those and other issues. This must be addressed as soon as possible.

The arenas for communication include: (1) mass media, (2) institutions, (2)community forums, (4) one-on-one contact, (5) focus groups/surveys and other means

Experience over the decades affirms that the most effective means of communicating with Native Hawaiians is by person-to-person contact, and especially through the 'ohana (family). This has been the preferred mode because "trust" in the system and other people, unfortunately, has eroded over the years due to perceived or actual negative experiences.

Therefore, person-to-person outreach and small focus groups within the 'ohana (family) or moku (island or district) must be part of the outreach strategies for community participation

4. NATIVE HAWAIIAN SYSTEMS REVIEW CONSORTIUM

Concurrently with items 1 – 3 , above, the Native Hawaiian Systems Review Consortium (see attachments and December 10 statement), will assess the existing public and private service delivery systems and propose changes which can be implemented, possibly sooner than the self-governance activities. Also, these consortium discussions can result in recommendations to the Native Hawaiian Convention for inclusion in its deliberations.

IV. Desired Outcomes

The following community outcomes are expected.

1. The first-ever non-organization affiliated delegates, elected by the Hawaiians from all parts of the globe, will reach consensus on governance directions through a Native Hawaiian Convention process and will make their recommendations to the Hawaiian electorate for a ratification vote.
2. After education of all Hawai'i, and Native Hawaiians around the globe, on sovereignty and related issues and on convention recommendations, the ratification vote will provide all Native Hawaiians with an opportunity for decision-making on their desired future for self-governance. A Bill of Rights and Constitution will be evolved.
3. Once initial self-governance decisions are made, plans for implementing actions and detailed recommendations for a system of governance and plans for capacity-building in leadership, skills and services to the community, can be developed through future appropriate mechanisms.
4. Long range and strategic plans will be developed for systems changes or new initiatives in education, housing, health, land rights and management, knowledge and technology management, and other capacity building areas.
5. The Hawaiian community will have more clarity and unanimity in dialogue at the local, state, federal, and international levels of government and in the private sector on issues which have been plaguing the Hawaiian and Hawai'i community for generations.

6. The Hawaiian community will be prepared, through its own decision making process, to respond to anticipated state legislative and state constitutional convention action during the year 2000 and soon thereafter.

Conclusion

I urge this reconciliation consultation panel to accomplish the following in an urgent timeframe:

- Initiate actions that will extend prevention, intervention, and follow-up programs and efforts to improve social and economic conditions of Native Hawaiians. This action should not be considered as a substitute for action on self-determination.
- Establish an Office of Native Hawaiian Reconciliation (with consultation and decision-making by Native Hawaiians) as a permanent part of the federal government, to ensure the long term commitment to the process and outcomes for Hawaiians.
- Establish a framework for reconciliation which builds upon current Native Hawaiian Convention (NHC) plans for self-determination through a ratification process involving the Native Hawaiian electorate.

Note: Concurrently, you should support Native Hawaiian leadership in convening a Native Hawaiian Systems Review Consortium which will assess current impacts on Hawaiians, plan strategies for changing systems policies and operations, and implement modifications to existing systems and their responsiveness (or lack thereof) to Native Hawaiians and their needs.

We, the Hawaiian community, stand ready to take a leading role in the reconciliation process with your support and understanding. Mahalo.

EXPLORING WHETHER THE 1934 INDIAN RE-ORGANIZATION ACT (IRA) APPLIES TO NATIVE HAWAIIANS

The Executive Branch has refused to allow the law to apply to Hawai'i. It is the only state excluded or treated "unequally" with regard to this Act.

Native Hawaiians (*kanaka maoli*) meet the following criteria required for recognition as an indigenous nation.

- *Kanaka maoli* had treaty relations with the United States. (Most important of the treaties was The Treaty of 1826, which promised eternal peace between the U.S. and the Hawaiian nation.)
- *Kanaka maoli* were recognized by Congress and the Executive Branch in 1921 when they established the Hawaiian Homes Lands. Legislation during the 1900s addressed Native Hawaiian needs as well.
- *Kanaka maoli* have collective rights in some land or money through the Hawaiian Home Lands and Office of Hawaiian Affairs trusts.
- *Kanaka maoli* have been treated as indigenous people by other indigenous People. The most recent example is that of Native Hawaiians hosting the World Indigenous Peoples Conference in Hilo, Hawai'i in August 1999, which was attended by 5,000 people. Appropriate ceremonies provided acknowledgement of all indigenous people (including Hawaiians) present.
- *Kanaka maoli* have received special appropriations beginning with the Hawaiian Homes Lands to the present federally funded programs.
- *Kanaka maoli* have social solidarity evidenced by a strong sense of being Hawaiian and identification as an indigenous people. Individuality among political groups may be evident, but does not erase or override the cultural (social) solidarity. The culture is still alive through music, dance, writing, cultural practices, and more.
- *Kanaka maoli* have very strong evidence from ethnology, anthropology, and history as an indigenous people.

GLOSSARY AND NOTES

Organizations and agencies will be asked to serve as convenors of "system review" meetings, since they are identified as lead agencies in the categories of interest. Suggested convenors include:

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- Culture - Queen Lili'uokalani Children's Center (QLCC)
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- Economic Develop. - Native Hawaiian Chamber of Commerce (NHCC)
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